

REMARKS

Applicants request reconsideration of the above-identified application in light of the amendments and remarks described herein. Claims 1-38 are pending in this application.

Applicants respectfully submit that all claims are now in condition for allowance. Accordingly, applicants request reconsideration and allowance of all claims.

Presentation of the Claims

The presentation of the claims is believed to be in compliance with the Examiner's requested form and MPEP § 1453. The original patent claims (Claims 1-16) were amended in the reissue application in previous amendments, filed on December 22, 2006, June 25, 2007, and March 20, 2009, to remove reference numerals and correct typographical errors.

The new claims (i.e., Claims 17-38, which are not found in the original patent, but were newly presented in the reissue application) are presented with underlining throughout the claims. These claims are presented with underlining throughout because these claims are not found in the original patent. Claim 17 was amended in a first amendment submitted December 22, 2006, in a second amendment submitted July 18, 2008, and for the third time in the present paper. The remaining Claims 18-38 are not being amended in this paper. Claims 32 and 37 were amended once in an amendment submitted June 25, 2007.

Summary of the Interview

A telephonic Examiner Interview between applicants' representative, Emily Peyser, and Examiner Timothy F. Simone was held on September 16, 2009. Proposed claim amendments were discussed with the Examiner to overcome the Section 112 and Section 102 rejections. After the discussion, the Examiner requested that a formal response paper be filed. Applicants thank the Examiner for his time spent during the Interview.

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Claim Rejections Under 35 U.S.C. § 112

The Office Action has entered a new rejection of Claims 17-38 as being rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Specifically, the Office Action states that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. In that regard, the Office Action indicates that the original application does not provide sufficient support for the following language in Claim 17:

high-pressure chamber *formed* by walls *within* the housing, wherein the walls of the high-pressure chamber are separate . . . the high-pressure chamber *in communication* with the return channel and the perforated walls of the tunnel, with the gas circulation device maintaining the high-pressure chamber *at a higher pressure* than the return channel.

In addition, the Office Action has rejected Claims 17-38 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Office Action states that the claims are not enabled, given the lack of description. Applicants disagree with the rejections, but have entered amendments as described in greater detail below to expedite allowance of the application.

Applicants have amended Claim 17 to delete the term "formed" and add the term "provided," as follows: "a high-pressure chamber ~~formed~~ provided by top, bottom, and side walls." Support for this amendment can be found in the specification in FIGURES 2 and 3 and at Column 3, lines 14-20, as follows:

A high-pressure chamber 14 is provided by substantially vertical side walls 15 and 16 each one connecting with the side edges of the openings of the bottom wall of the tunnel 11, and a top wall 17 having an opening towards a fan 18 constituting a gas circulation means. This high-pressure chamber 14 is positioned substantially above the tunnel 11 and is spaced from the side walls 4, 5 of the housing 1.

Applicants have amended Claim 17 to delete the term "within" and add the term "disposed within," as follows: "a high-pressure chamber provided by top, bottom, and side walls disposed within the housing." Support for this amendment can be found in the specification and in FIGURES 2 and 3.

Applicants have amended Claim 17 to delete the term "separate" and add the term "spaced," as follows: "wherein the side walls of the high-pressure chamber are ~~separate~~ spaced from the side walls of the housing." Support for this amendment can be found in the specification at Column 3, line 20 (copied above).

Applicants submit that the language "the high-pressure chamber *in communication* with the return channel and the perforated walls of the tunnel" is supported by the specification in FIGURES 2 and 3 and at Column 3, lines 21-41, as follows:

The return channel 13 leads from under the tunnel 11 laterally to the outside of the side walls 15, 16 of the high-pressure chamber 14 up through an evaporator 19, 20 and then laterally inwards above the top wall 17 of the high-pressure chamber 14 towards the center of the housing 1 and the suction side of the fan 18.

The lower parts 15a, 16a of the side walls 15, 16 of the high-pressure chamber 14 are articulated to the top parts 5b, 16b of the same side walls 15, 16, e.g. by axes 21. In their closed position, as illustrated in FIG. 2, the lower parts 15a, 16a of the side walls 15, 16 keep the high-pressure chamber 14 closed such that air introduced by the fan 18 can generate a high pressure in the chamber 14 and thereby also generate air jets through the perforations of the upper (12) and lower walls of the tunnel 11 impinging upon the products carried by the conveyor belt 8 therein. The lower parts 15a, 16a of the side walls 15, 16 are substantially horizontal in their open position, i.e. being swung outwards from the tunnel 11, and now give access to the inside of the high-pressure chamber 14.

Applicants submit that the language "the gas circulation device maintaining the high-pressure chamber *at a higher pressure* than the return channel" is also described in the specification at Column 3, lines 21-41 (copied above).

Accordingly, applicants request withdrawal of the claim rejections under 35 U.S.C. § 112.

Claim Rejections Under 35 U.S.C. § 251

Claims 1-38 have been rejected as being based upon a defective reissue declaration for the reasons given above under 35 U.S.C. § 112. In addition, Claims 17-38 have been rejected as being based upon new matter added to the patent for which reissue is sought. Applicants submit that such rejections are obviated by the discussion above regarding 35 U.S.C. § 112.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 17-38 have been rejected under 35 U.S.C. § 102(b) as being anticipated by WO 84/04808, issued to Smith (hereinafter "Smith").

Anticipation requires the presence of each and every claim limitation in a single prior art reference. To establish a prima facie case of obviousness, the cited prior art references must teach or suggest all of the claim elements. In addition, there must be some apparent reason, either in the references or in the knowledge of one skilled in the art, to modify the reference or to combine the elements of multiple references with a reasonable expectation of success.

Smith is generally directed to an impingement thermal treatment apparatus with collector plate. Smith does not teach or suggest "at least one substantially vertical part of the walls forming the high-pressure chamber being removable so as to provide access to the inside of the high-pressure chamber," as recited in Claim 17. For at least this reason, Claim 17 is not anticipated or rendered obvious by Smith. Accordingly, applicants request withdrawal of the claim rejections under 35 U.S.C. § 102(b).

Delineation of Claim Amendments

Applicants note that currently pending Claims 1-38 are generally directed to subject matter previously presented in original patent Claims 1-16. Previously submitted new Claim 17

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has been further amended to overcome the rejections described above. A marked-up version of previously submitted new Claim 17, specifically delineating the new changes made, is provided as follows:

17. (Thrice amended) An apparatus for gas treatment of products, comprising a housing having top, bottom and side walls;

a conveyor belt for transporting the products along a path in the housing;

a tunnel having perforated walls and enclosing the conveyor belt along the path;

a gas circulation device communicating with the tunnel via the perforated walls for circulating gas into the tunnel in the form of gas jets impinging upon the products carried by the conveyor belt, and out of the tunnel in a return channel back to the gas circulation device;

a gas conditioning device positioned in the return channel for conditioning the gas circulated by the gas circulation device;

a high-pressure chamber ~~formed~~ provided by walls disposed within the housing, wherein the walls of the high-pressure chamber are separate spaced from the walls of the housing, the high-pressure chamber in communication with the return channel and the perforated walls of the tunnel, with the gas circulation device maintaining the high-pressure chamber at a higher pressure than the return channel; and

at least one substantially vertical part of the walls forming the high-pressure chamber being removable so as to provide access to the inside of the high-pressure chamber.

Support for the above-identified claim amendments is identified in a document submitted concurrently herewith pursuant to 37 C.F.R. § 1.173(c) entitled "STATEMENT OF STATUS AND SUPPORT FOR ALL CHANGES TO THE CLAIMS MADE PURSUANT TO AMENDMENT."

Conclusion

In view of the foregoing amendments and remarks, applicants respectfully submit that the present reissue application is in condition for allowance. The Examiner is invited to contact the undersigned representative with any remaining questions or concerns.

Respectfully submitted,

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